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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/629,170	07/29/2003	Bruce Wallman	CHA920030012US1	7168
23550 7590 08/18/2008 HOFFMAN WARNICK LLC 75 STATE STREET 14TH FLOOR ALBANY, NY 12207				
EXAMINER TESLOVICH, TAMARA				
ART UNIT 2137		PAPER NUMBER		
NOTIFICATION DATE 08/18/2008		DELIVERY MODE ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PTOCommunications@hwdpatents.com

**Advisory Action**  
**Before the Filing of an Appeal Brief**

**Application No.**

10/629,170

**Applicant(s)**

WALLMAN, BRUCE

**Examiner**

Tamara Teslovich

**Art Unit**

2137

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 28 July 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: \_\_\_\_\_.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

/Emmanuel L. Moise/  
Supervisory Patent Examiner, Art Unit 2137

Continuation of 11, does NOT place the application in condition for allowance because: Applicant's arguments filed July 28, 2008 have been fully considered but they are not persuasive. The Examiner has done her best to specifically point out those sections of the references which correspond to Applicant's invention and has not merely relied upon the references in their entirety. That being said, Applicant's invention has been rejected in view of the references in their entirety insofar as it is the references in their entirety that teaches the invention in its entirety with particular portions disclosing recitation limitations in the claims. In response to Applicant's comments regarding claim 2, the Examiner respectfully disagrees that the reference "clearly indicates that a login screen would simply be redisplayed even though the client has been locked out". The Examiner is unable to locate any such teaching within the reference. The portions relied upon by the Examiner clearly teach "automatically [locking out] an account after a threshold" and "do not inform the client system that the process has happened." The Examiner maintains that Ollmann's "automatically lockout an account after a threshold has been reached" serves to anticipate Applicant's "stops issuing HTTP 'OK' response code" "after a predetermined number of improper requests" and that Ollmann's "do not inform the client system" anticipates Applicant's "issues no response." In response to Applicant's comments regarding claims 4 and 12, the Examiner respectfully maintains her rejection of the claims for those reasons given in the remarks section of her previous office action with regards to the Ollmann reference. The Examiner apologizes for referencing the W3C reference in her previous office action regarding claim 4 as she has not and is not relying upon such a reference for her rejection. In response to Applicant's comments regarding claims 5, 6, 13, and 14 the Examiner respectfully maintains her rejection of the claims for the reasons given in the remarks section of her previous office action. Applicant argues that the reference discusses reply messages only and fails to discuss requests in any way. However, page 10 of the W3C reference specifically discusses both "echo requests and echo reply packets" in line 9 as well as throughout the reference. In response to Applicant's comments regarding claims 8, 10, and 17, the Examiner respectfully maintains her rejection of the claims for those reasons presented in the remarks section of her previous office action. There is no question that the references in question are able to detect improper requests so that those requests, whether unexpected or in error, may be dealt with accordingly. The Examiner maintains her previously set forth rejection of the claims for those reasons presented above and in previous office actions.